

**Manatee Protection Plan Review Committee (MPPRC)**  
**Minutes of June 3, 2009**

**Committee Attendees:** Manny Prieguez (Chair); Brett Bibeau; Richard Bunnell; T. Spencer Crowley III; Judith Futerfas; Lynda Green; Bob Karl; Mark Lewis; Robert Moser; Manny Prieguez, Dick Townsend (Vice Chair)

**County Staff Attendees:** Lee Hefty (DERM); Craig Grossenbacher (DERM); Molly Messer (DERM); Nancy Revilla (DERM); Matt Davis (DERM); Lisa Spadafina (DERM); Steve Blair (DERM); Sheri Kempinski (DERM); Paul Voight (DERM); Kevin Asher (MDPR)

**Other Attendees:** A sign in sheet was provided for public sign in.

**1. Welcome, Introductions, and Review of Agenda:** A quorum was established. The meeting was called to order by Chair Manny Prieguez at 1:02 P.M. The meeting was recorded on video.

After the meeting was called to order, Chair Prieguez mentioned that an ordinance has been drafted to provide a three month extension of the sunset date. He stated that it has been scheduled for second reading on June 30, 2009.

**2. Presentation & Discussion of Final Mote Boating Study:** Jay Gorzelany from Mote Marine Laboratory made a summary presentation of the results from the Recreational Boating Activity in Miami-Dade County study. An extended question and answer session then ensued during which several committee members asked questions about the study methods and data collected.

After a significant amount of discussion regarding the Mote Study, Chair Prieguez stated that he wanted to defer agenda item number 4 to provide more time for additional committee discussion on item 2 and to provide additional time for the public to speak during the public comment part of the meeting due to the large public turnout.

The committee members were then offered additional time to provide comments and ask questions about the Mote Study.

After further discussion regarding this item was completed, Chair Prieguez called for a 5 minute break at 2:45 P. M. Bob Karl left the meeting at this time.

**3. Public Comment:** Chair Prieguez opened the floor for public comment.

**Laura Reynolds**, Executive Director of Tropical Audubon Society recommended that the MPPRC focus on the ancillary benefits of protecting the manatee and maintaining the current restrictions. She stated that the additional pressure from increased vessels and slips would put additional pressure on the resources, would create additional boating safety issues and could negatively affect the commerce and tourism industries in Miami-Dade County. Ms. Reynolds pointed out that the Miami-Dade MPP has been nationally recognized as a plan that provides a good balance between manatee protection and other interests. She stated that it was used in Jacksonville as a model for their manatee protection plan. She further stated that changes in slip allowances would only benefit a few and not the county as a whole, once again emphasizing the pressure on resources, boating safety and the resultant impacts to commerce and tourism. Ms. Reynolds recommended that the MPPRC take the data presented and use it

to strengthen the plan rather than weaken it by regulating speed zones in “hot spots”; by limiting boating entrance to certain sensitive areas; and by requiring mandatory boater education.

**Ed Swakon**, President of the Miami Marine Council provided the committee with a copy of a matrix he is proposing for slip transfers. He explained that the matrix could be used as a method to allow transfer of slips from one waterway to another using a point system. He stated that he believes that there could be a way to transfer from one tributary to another that would be favorable to manatees and offered as an example the removal of two slips in certain situations for each slip built in the new location. He requested that the MPPRC give the matrix serious consideration for this purpose.

**Joy Ulrich** spoke on behalf of the board of Marine Animal Rescue Society (MARS). Ms. Ulrich stated that she is an educator and that the only change recommended is to increase the public education requirements.

**Kevin Asher**, from Miami-Dade Park and Recreation stated that MDPR has been supportive of the plan as it presently exists, but thinks that the plan should be updated based on the new data. He suggested that the MPPRC consider things like demographics when making recommendations for changes. Mr. Asher suggested that the MPPRC use a balanced approach to updating the plan.

**Jessica Lee** explained that, as an FIU student and avid boater, she believes the MPP is fine the way it is and stated that the MPPRC does not need to fix something that is not broken. She stated that all of the data supports the significance of vessels in deaths of manatees. She further stated that Miami-Dade County issues the most citations for violations of vessel speed zones out of any other agency in the state. Ms. Lee also stated that any changes to the plan to increase vessels in manatee areas will impact manatees.

After the public comment was completed, Judith Futerfas requested and the Chair allowed the members of the public to give their opinion about slip transfers.

**Laura Reynolds** stated that she thinks that any slip transfers should be out of sensitive manatee areas (i.e. that slips not be allowed into sensitive areas via transfer).

**Ed Swakon** stated that he thinks that the scoring system that he provided to the MPPRC is a realistic system for moving slips. He stated that the idea of slip transfers needs to be memorialized in the plan.

**Jessica Lee** stated that in several letters provided to the MPPRC, the FWCC has made it very clear that they will not support any type of slip transfer concept.

**4. Item Specific Committee Discussion & Voting:** This item was deferred by Chair Prieguez as previously mentioned to allow for additional time for committee discussion of item two and public comment.

**5. Proposed dates for future meetings:** After a brief discussion, the committee confirmed that their next meeting date would be July 1, 2009 from 1:00 PM to 4:30 PM. Mr. Moser asked if an agenda for that meeting had been set. Chair Prieguez stated that it had not. A discussion ensued regarding the sunset date of the committee and whether a second meeting in July should be set in case the pending ordinance to extend did not pass. The committee decided that the next meeting date following the July 1 date would be scheduled for July 10, 2009 from

1:00 PM to 4:30 PM. This was based on the understanding that if the committee gets its requested extension, then the July 10 meeting could be postponed or cancelled if appropriate. In the event that the pending ordinance to extend the committee did not pass, the MPPRC would be expected to finalize its report on that date.

**6. Draft minutes from the May 8, 2009 meeting:** Lynda Green made a motion to approve the May 8, 2009 draft minutes. The motion was seconded by Vice Chair Townsend. The vote was unanimous. Bob Karl, Kate Mansfield, Alberto Lamadrid and Julia Zaias were not present for the vote.

#### **Other Business:**

DERM Assistant Director Hefty then addressed two questions that Brett Bibeau asked in the May 8, 2009 meeting concerning representation of committee members in the event of a lawsuit against the committee or its members. The questions that Mr. Bibeau had asked were specifically as follows: 1) "Property rights are protected by the Constitution and the Bert J. Harris Act, etc. I have been subpoenaed in three lawsuits essentially based on claims that boards violated the law by overly restricting protected private property rights. If a property owner and or interest group files lawsuit against this board and its members, what protections, representation and defense will the County provide us?" and 2) "Many boards, advisory boards have board member insurance that in many ways protects them. Does this board have a board member insurance policy?"

Mr. Hefty read an email from the Assistant County Attorney stating "Since the Manatee Protection Plan Review Committee is purely an advisory board with no authority to make a decision affecting personal property rights, it's difficult to conceive of such a claim." "However, in the event that a claim was brought against the board and/or its members for actions taken within the scope of their official capacity, then this office (CAO) would represent them." Mr. Hefty, prefacing his response by saying that he was not an attorney, reiterated that this position is based on the assumption that the board and/or its members were acting legally and not in violation the law. Mr. Bibeau requested the response in writing and staff acknowledged that it would be provided. In response to Mr. Bibeau's second question concerning insurance, Mr. Hefty reported that the Assistant County Attorney was unaware of any such insurance for the board members.

Chair Prieguez brought up former discussions about providing the final Mote study to the law enforcement agencies and recommended that the committee send a letter cover letter with copies of the study to all law enforcement agencies in Miami-Dade County that have a presence on the water, if it was proper and the committee agreed. Mark Lewis agreed and additionally recommended that DERM take the presentation and meet with the law enforcement officers when they have their monthly meeting; not necessarily on all of it, but at least portions of it.

An official motion was made by Lynda Green to send a letter to all law enforcement agencies with on-water patrol in Miami-Dade County along with a copy of the final Mote Study for their use for improved enforcement in "hot spots" of vessel speed zone non-compliance. The motion was seconded by Brett Bibeau. The motion passed unanimously. Committee members Bob Karl, Alberto Lamadrid, Kate Mansfield, PhD and Julia Zaias, PhD were absent.

After the motion was passed, the Chair requested that DERM draft the cover letter and get a final copy of the Mote report to inform the law enforcement agencies of the areas of illegal activity.

T. Spencer Crowley, III made a motion to adjourn the meeting which was seconded by several committee members. The meeting was adjourned at 3:45 PM.